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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

IN RE: BARD IVC FILTERS PRODUCTS
LIABILITY LITIGATION

No. MDL 15-2641-PHX-DGC

No. CV17-02533—PHX-DGC

THIS DOCUMENT RELATES TO:

Hendra Scott,

Plaintiff,

v.

C.R. Bard, Inc. and Bard Peripheral Vascular
Inc.,

Defendants.

**MOTION TO SUBSTITUTE PARTY
PLAINTIFF AND FOR LEAVE TO
AMEND SHORT FORM COMPLAINT**

NOW INTO COURT, through undersigned counsel, comes D'Andre Windfield, surviving spouse of Plaintiff-Decedent Hendra Scott, who respectfully moves this Court pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure for an order substituting himself as Plaintiff on behalf of his deceased wife, Hendra Scott and for leave to amend short form complaint. Plaintiff states as follows:

1. Plaintiff Hendra Scott filed a products liability lawsuit against Defendants on July 28, 2017.

2. Plaintiff's Counsel learned that Hendra Scott died on March 24, 2019.

1 3. Plaintiff-Decedent's product liability action against the Defendants survived her
2 death and was not extinguished.

3 4. On October 7, 2019, a Notice and Suggestion of Death was filed, attached hereto
4 as "Exhibit A."

5
6 5. D'Andre Windfield, as Plaintiff-Decedent Hendra Scott's surviving spouse, is a
7 proper party to substitute for Plaintiff-Decedent Hendra Scott and has proper capacity to proceed
8 forward with the surviving products liability lawsuit on her behalf, pursuant to La. Civ. Code
9 Art. 2315.1 and Fed. R. Civ. P. 25(a)(1). "If a party dies and the claim is not extinguished, the
10 court may order substitution of the proper party. A motion for substitution may be made by any
11 party of the Decedent's successor or representative."

12
13 6. D'Andre Windfield further seeks leave to file the attached First Amended Short
14 Form Complaint to substitute himself as Plaintiff on behalf of Plaintiff-Decedent Hendra Scott
15 and to add counts for Loss of Consortium, Survival Action and Wrongful Death.

16
17 WHEREFORE, Counsel for Plaintiff requests that this Honorable Court grant this
18 Motion for Substitution and leave to file the First Amended Short Form Complaint in this action.

19
20
21 Dated: October 7, 2019

DEGARIS WRIGHT & MCCALL, LLC,

22 /s/ Annesley H. DeGaris

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of October 2019, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ Annesley H. DeGaris
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